COMMISSIONERS PROCEEDINGS
DECEMBER 6, 2005
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Boldt, Stuart, and Morris, Chair, present.

9:45 A.M.

SWEARING-IN CEREMONY FOR COMMISSIONER STEVE STUART

Judge Barbara Johnson presided over the swearing-in ceremony for Commissioner Steve Stuart. Commissioner Stuart expressed his appreciation.

10:00 A.M.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

BID AWARD 2425

Reconvened a public hearing for Bid Award 2425 – Annual Fresh Baked Goods. Mike Westerman, General Services, read a memo recommending that Bid 2425 be awarded to the lowest bidder.

Stuart wanted to know if there were any bakeries in Clark County that could handle this particular bid.

Westerman said no.

There being no public comment, **MOVED** by Boldt to award Bid 2425 to Franz Family Bakery of Portland, Oregon, in the total bid amount of $44,968.80, and grant authority to the County Administrator to sign all bid-related contracts. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 244)

PUBLIC COMMENT

Bridget Schwarz, Fairgrounds Neighborhood Association, Ridgefield, referenced consent agenda item 15 (Fairgrounds Community Park Master Plan) and requested that the item be pulled. Mrs. Schwarz stated that they had an alternative action they would like the board to take and further explained. She said the Fairgrounds Neighborhood Association had a meeting and voted to request that the board suspend development of the Fairgrounds Community Park because they need to work out something in terms of where their children will play.

Morris stated that she wasn't much inclined to remove the item. She said if ball fields are publicly financed, then they are publicly used and no one would be excluded from use because they live inside or outside urban growth boundaries are because they are an away team—there is no policy in place that allows that. Morris said she was not inclined to delay approval of a master plan at this time, given the fact they have labored so hard to get parks in the county. She encouraged the commissioners to verbally reinforce the total public access to publicly funded ball fields in this county. Morris said it would have been appropriate and helpful if Ms. Schwarz would have emailed her concerns and information to the board previous to the hearing because she has caught them off guard and have also insulted staff. She added that there was not a million dollars in the budget today for ball fields although she wished there was.

Schwarz said she read about it in the consent agenda and it also caught her by surprise. She said they weren't notified by the Parks Department that they were proceeding with the master plan and coming before the board today. She said they have been told repeatedly that the Salmon Creek leagues would have exclusive use of those ball fields.

Morris reiterated that no one has exclusive use of ball fields. She further explained.

Boldt agreed that anyone gets to play and asked Mrs. Schwarz to provide a name to the board and they would talk to that particular staff person.

Schwarz said she would do that.

CONSENT AGENDA

Stuart referenced item 15 (Fairgrounds Community Park Master Plan) and wanted to know what league(s) would be playing there.

David Judd, Director, Vancouver-Clark Parks and Recreation, responded that it would be Salmon Creek Little League—half of their program would be at the Fairgrounds Park—and Salmon Creek Soccer League. It would be during league season and once league season is over, as well as outside of times during league season when games are scheduled, the fields will be open to anyone.

Stuart also wanted to know if there was any sense of how it would be worked out so that both Ridgefield and Salmon Creek residents all have a place for their kids to play.

Judd said both Salmon Creek Little League and Salmon Creek Soccer, over the next 20 years, would practically double in size as far as the number of participants. He explained that Salmon Creek Little League's growth could be accommodated at the Fairgrounds site. He said that initially three fields will be built for them and in the long term there will be five fields. He said

they would always be a separated league and that as far as the buy-ability of the league, they had discussions and concluded that if they could find a site to put them under one roof, they would be much more viable. He said they have not been successful in looking at other properties because they have been priced much higher than anticipated. He said they are moving ahead with the development of the Fairgrounds Park because that site can meet the needs of those leagues, although not entirely. Mr. Judd said they are also looking at the regional REET and how that's being spent and they hope to have a proposal to the Parks Commission and then to the Board of County Commissioners to look at how the regional REET might be used to support youth sports in the rural areas.

Morris said they needed to have internal discussion. She said she was happy to enter into a joint parks agreement with Ridgefield; however, she didn't recall any commitment to provide fields for Ridgefield soccer league as such, so much as for kids.

Stuart agreed that they should have discussions regarding that.

There being no public comment, **MOVED** by Boldt to approve items 1 through 17. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 244)

PUBLIC HEARING: COMMUNITY DEVELOPMENT FEES

Held a public hearing to consider changes to the fee schedule for work performed by the Development Services, Engineering, Inspection, Building, and Fire Marshal Divisions of the Community Development Department. The proposal will include fee increases, decreases, and new fees.

Toby LaFrance, Department of Community Development, presented. Mr. LaFrance stated that the calculations for the fees support the changes they have in the 2006 budget proposals and are calculated in accordance with the audits he talked about. He said the fees are based upon full cost with relevant proportions of the Permitting Services Department, downstream costs for Code Enforcement, the Director's Office, and the proportionate portions of the Fire Marshal's Office. He said the net change for all fees is a net decrease in Development Services and Building of 4.7%. He further explained. In the area of Building Services, they requested a fee decrease of 2.9%, which would also fund their request in the 2006 budget readoption, as well as an additional three building inspectors. Lastly, Mr. LaFrance stated that they had a few administrative changes, new fee adjustments.

Morris commented that this was the first time she has seen the fees decrease.

[Public comment opened]

Steve Madsen, Building Industry Association of Clark County, commended the efforts of the Department of Community Development. Mr. Madsen also expressed support for the three additional building inspectors.

Stuart asked Mr. Madsen about the pending law suit from the BIA regarding fees. He said he would like to see that suit dropped. He said the Community Development Department is doing a great job of meeting the needs of the community they serve and it would be a nice message for the BIA to send by dropping the suit.

Madsen noted that he was the attorney for the Building Industry Association of Clark County. He explained that the law suit was filed as a class action suit on behalf of several individuals besides the BIA and they have been advised by their other attorneys that any resolution would have to be approved by the court and that it's technically not possible for them to unilaterally dismiss it at this point. Madsen suggested that Commissioner Stuart speak with Mr. Potter. He added that he has encouraged their attorney to move in that direction and that they don't have any particular interest in continuing to pursue what appears to have been corrected.

Stuart said he would appreciate it if Mr. Madsen would go back to the BIA and then get back to him with any information possible as far as the possibility of dismissing this.

Madsen said their intent is to resolve this.

[Public comment closed]

Stuart stated that he would like to see a show a good faith on the part of the BIA before moving forward with this.

There being no public comment, **MOVED** by Boldt to approve Ordinance 2005-12-01.

Morris said that with due respect to Commissioner Stuart, she would have to support Commissioner Boldt's motion.

Stuart added that the effort staff put in developing the cost associated with the fee system they have is great work and something he would support. He said he simply felt it had been relatively one-sided and it would be nice to see it go both ways.

Commissioners Morris and Boldt voted aye. Commissioner Stuart voted nay. Motion carried. (See Tape 244)

PUBLIC HEARING: SUPPLEMENTAL APPROPRIATION

Held a public hearing to consider the 2005/2006 readoption supplemental appropriation within various operating and capital funds in the amount of $43,280,786 and setting 2006 tax levies.

Jim Dickman, Office of Budget, presented. Mr. Dickman summarized the request as outlined in the staff report. He stated that the total request across all funds on the expenditure side is approximately $43.3 million. There are revenue offsets of approximately $35 million. Of the expenditure request, capital amounts to approximately $21.8 million. Other costs amount to about $17 million; and transfers between county funds amounts to approximately $4.7 million. He said that of the capital request, most of the request is due to the Public Works Annual Construction Program for the road program of 2006, amounting to $13.6 million, which is funded by almost $8 million in grants, Traffic Impact Fees, and other fees associated with the program. Dickman said the Traffic Impact Fee/Park Impact Fee is $3.6 million and the Clean Water Fund is putting forward a capital construction program of about $2.8 million. Also, there's equipment roll-over where historically in the past the county has used old vehicles for certain departments and it's being proposed that many of those pieces of equipment be replaced with new vehicles, and that amounts to $1.6 million. In addition, they also have $500,000 for ball fields. As far as other costs of $17.5 million, the Sheriff successfully acquired a Department of Corrections contract for the addition of personnel, including deputies and custody officers and support, amounting to $2.5 million. For the Department of Community Development there are several items, including expansion of the Battle Ground Office; Annual Reviews and revised Comp Plan comes to $1 million and is supported by additional fees. For the Metropolitan Parks District, they are recognizing the budget and revenues, although they have already been approved—they are simply putting them on the books—and that amounts of $750,000. For the Department of Community Services, due to timing, they have requests for several grants in the amount of approximately $5.6 million and there are also other costs of $7.4 million that include an additional funding of sheriff's deputies. Dickman requested one change to Item 20 of the staff report, which currently codes the Indigent Coordinator position against the new Trial Court Improvement Fund—that fund was established through the passage of Senate Bill 5454 for improvements to the court system. He requested that that position be moved to the General Fund.

Morris wanted to know if technically they amended a staff report only if they were adopting a staff report. She said they were adopting a resolution.

Dickman said they have changed staff reports in the past, but it had to be done during a public hearing.

Morris asked what the specific language changes would be in the staff report, what page.

Bill Barron, County Administrator, responded that the change would be on page 7 of 54, Item 20.

Dickman said it would read – "the General Fund pay the cost of the Indigent Defense Coordinator."

Barron added that they would strike the entire last two sentences and add "to be funded from the General Fund."

Stuart said this wouldn't change how it would be funded, but just makes it specific about where the funding would come from—was that correct?

Dickman said the General Fund will cover the cost of the position.

Barron provided further clarification.

Morris asked for a motion to amend the staff report.

There being no public comment, **MOVED** by Boldt to amend the staff report, page 7, Item 20, to strike the language "from SB 5454 to Coordinator" and adding "allocation of General Fund." Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 244)

Dickman said there was one other bit of information: one of the resolutions is to set the tax levy for the General Fund, and state law restricts an increase to 1%, plus new construction. The 1% over the previous year, 2005, amounts to $434,000 and the new construction amount they expect to collect in 2006 if approximately $1.9 million.

Morris indicated that she had asked Mr. Dickman to draw that point specifically in his narrative. She said that once again the amount of money that the county will see as an increase in their regular property tax levy next year will be $434,000, but the amount of new property tax revenue that will come from the General Fund from new construction, which works under a different formula, will be $1.9 million, or five times the amount of money that comes from the regular property tax levy. Morris also wanted to clarify the confusion over the ball fields because earlier in the morning she had requested that it come from the money that was not spent on elections, but that's not where it came from. She asked Mr. Dickman to clarify for the record where it came from and how they got it.

Dickman explained that at the work session that was held about 3 weeks previously, the proposal was changed to cover the ball fields – they reduced the existing request from Weed Management, which was a request two ¾ field inspectors.

Morris wanted to know how many Sheriff's Deputies they were adding in this budget.

Dickman said they were adding 9.

Morris said they were adding 9 deputies to the Sheriff's patrol division, as well as cars, and 6 of those are being paid for from a contract with the Department of Corrections and 3 are being paid out of the General Fund. She asked if it's correct that they are also hiring 2 new employees for Weed Management.

Dickman said yes, 1.75.

Morris said she understood that the ball fields came from the Real Estate Excise Tax.

Dickman said that part of the Real Estate Excise Tax covered the ball fields and the rest came from re-shuffling some of the requests made during the work session.

Morris asked how much was coming from the Real Estate Excise Tax.

Dickman said $62,000 and the General Fund was paying for the rest of it.

Morris said it was worth noting that the Sheriff would be getting 9 new road patrols, although that's not enough and they would be working for more in the future.

Boldt asked about the 1%, if it went into the fund balance.

Glenn Olson, Director, Office of Budget and Information Services, responded that when they built the '05-'06 budget, it was part of the anticipated revenue stream and was accurately forecasted.

Morris opened public testimony.

Judge Robert Harris, Superior Court, spoke in regards to the court's request for the funding of a court commissioner and clerk for the County Clerk's Office. Judge Harris provided some background regarding the Trial Court Funding Task Force. He said they reached some legislation that was ultimately passed in Senate Bill 5454, which led to a series of increases in fees. He further explained. He stated that they did not submit any requests in the '05 budget hearing because they had no idea whether or not there would be any funds available to meet the basic standards. He said that with the advent of the funding coming in through the filing fees, they felt it was appropriate at this time to increase their court commissioner staffing. He explained that they created a Family Court Unit and have tried to develop some additional programs they feel are lacking. They've gone through the training sessions to develop a dependency drug court. He explained. Judge Harris said they are also looking at the establishment of Juvenile Court Drug program and believe they can internally finance it from

monies made available through the juvenile services contracts from the state. He said they want to establish the Family Law Unit so that it could function and meet projections over the next ten years. Harris said the case loads are such that hearing times are going well beyond the normal 9 to 12 and that's a constant, so it appears they need to add at least 3 additional dockets, which are half-day commitments. Those would be used by the additional Court Commissioner and would also eliminate the requirement of needing part-time commissioners to fill in for vacations. Judge Harris stated that they've had a 12% increase in felony filings this year, and they anticipate going close to 2,900. He said they are still two judicial officers short and would like to fill one of those positions in order to get closer to meeting the normal standards of a court operating at capacity. He said they were hoping to be included in this budget and realize they didn't meet the time lag, but would like some consideration within the next year.

Boldt said he toured the new mental health building and noted that it's wired and ready to go for drug or mental health court. He wondered how that would play into this during the study of a new court commissioner—would they consider sending a court commissioner there or teleconferencing?

Judge Harris said they would be conducting hearings there relating to mental health issues for the interim before involuntary commitment. Whether or not they bring in a drug treatment program there, he wasn't sure. He added that they also realize that they may have an impact of having hearings at Legacy Hospital because they would have mental commitment people, who would require hearings for treatment.

Morris addressed Mr. Barron and the Board and said she felt it would be worthwhile for the board to have a work session as early as possible in January, primarily regarding the courts and what they will need and what their resource streams are.

Stuart agreed and said he would like to do that as a first step to the bigger process of discussing how they deal with criminal justice needs in the county for the '07-'08 biennial budget because once they get more information about the courts, they'll inevitably find out how that's connected with other aspects of the criminal justice system.

Sheriff Garry Lucas, Clark County Sheriff, stated that the population growth over the past five years and the demand for services has increased. He said that while 9 new deputies is great, it meets the sixth deputy demand that they have calculated they need every year in order to meet the growth in population and increase in calls for services. So that takes care of last year and the 3 deputies takes care of 50% of the need for this year. Sheriff Lucas said the growth in patrol services that they've been able to provide has come by reorganization by and going out and finding some new revenue. He said he looks at the demand for services over the next few years and sees a need for approximately 21 deputies to get them up to an acceptable staffing level. He said the current jail is at capacity and above most of the time and with growth in municipal

police agencies alone they would find themselves in a severely overcrowded situation, resulting in the need for a new jail and the staff that would require. He said there's a need for a new central precinct. Also, the increasing number of judges drives the need for additional staff in order to bring people before those judges. Sheriff Lucas said the need for growth in the system outstrips the revenue streams currently available to the county and without additional revenue streams, he doesn't know how they get to addressing that need and it becomes increasingly critical every year that it's ignored. Lucas said it leaves him with the suggestion for the board that there is two tenths of 1 percent of sales tax for criminal justice purposes available to the board, which could implemented. He said he has searched for additional revenue streams beyond that, but they just do not exist. Sheriff Lucas stated that they look forward to working with the board in order to find solutions to these problems, both within their own organization and within the criminal justice system. He said they are grateful for 9 people, but the demand for service simply dwarfs the response so far.

Stuart said he appreciated that Sheriff Lucas came in with solutions and ideas.

Boldt echoed Commissioner Stuart's comments. He said he would request a work session regarding the two tenths of a percent issue in order to at least bring the county up to the city.

Morris thanked Sheriff Lucas and his staff and commented that he has done a superior job of managing the money available for his department.

Robert Vuchanovich, President of the Clark County Bar Association, and attorney primarily in the area of family law, commented about the third Superior Court Commissioner. He indicated that he comes before the Court Commissioners on a weekly basis and that most of their decisions have a great impact on the youth of Clark County. He said because of the tremendous amount of caseload and time limits, you'd find that there's only about a total argument time of 8-10 minutes for the commissioners to hear those arguments and decide on the futures of youth. He said he didn't believe that was enough time to determine what's in the best interest of these youth and the only way to solve that would be adding a third commissioner.

[Public testimony closed.]

There being no further public comment, **MOVED** by Boldt to approve Resolution 2005-12-02 – for the 2005/2006 Readoption Supplemental Appropriation. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 244)

There being no further public comment, **MOVED** by Boldt to approve Resolution 2005-12-03 – General Fund. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 244)

There being no further public comment, **MOVED** by Boldt to approve Resolution 2005-12-04 – Road Fund. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 244)

There being no further public comment, **MOVED** by Boldt to approve Resolution 2005-12-05 – Veterans Fund. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 244)

There being no further public comment, **MOVED** by Boldt to approve Resolution 2005-12-06 – Diversion Fund. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 244)

Stuart thanked the Budget Staff for their work and said that to be able to find money within the existing budget for public safety and parks was a huge win for the community.

Barron also thanked the Budget Staff for their work. He said he couldn't think of a better way to begin the '07-'08 budget than by having the work session as suggested by Commissioner Morris. Mr. Barron further explained.

[5-Minute Break]

PUBLIC HEARING: ANNUAL REVIEW/DOCKET

Held a public hearing to consider Annual Review Docket items. Continued from November 15, 2005.

CPZ2005-00092 – Docket (La Center School District Capital Facilities Plan). The school district's updated capital facilities plan and no change in impact fees pursuant to Section 40.620 of the Clark County Code. The Planning Commission recommended **APPROVAL** by a 5 to 0 vote. Continued from November 15, 2005.

Oliver Orjiako, Department of Community Development, introduced the Superintendent of La Center School District to present the requested change.

Mark Mansell, Superintendent, La Center School District, asked the board to approve the change to the capital facilities costs. He referenced the plan where it shows the adjusted impact fees.

Morris wanted to know what the La Center City Council had done.

Mansell responded that the Council was on their agenda for December 14, and there was every indication that they also supported the adjustments.

Morris asked Mr. Mansell what the new impact fees would be.

Mansell said for single-family it would be $4,442 and for multi-family would be $4,587.

Stuart asked if there was any testimony or talk amongst the school board members regarding what the possible impacts would be of the increases. Were there any negative consequences they are worried about?

Mansell said there was no major discussion and they've been working on this for some time and the school board gave them the go-ahead and has been very supportive.

There being no further public comment, **MOVED** by Boldt to approve Docket Item CPZ2005-00092, La Center School District Capital Facilities Plan, as amended. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 244)

CPZ2005-00070 - Hazel Dell Towne Center The property owner is seeking to redesignate parcels 145774-000, 145796-000, 145795-000, 145773-000, 145800-000, 145771-000, 145815-000, 145766-000, 145769-000, 145786-000, 145305-000, 145371-000, 145770-000, 145790-000, 145780-000 for approximately 34.8 acres from Mixed Use (C-3) and (CL) to Community Commercial (C-3) and to remove the current rezone covenant. The property is located at 9103 NE Hazel Dell Avenue. Motion to deny the request failed. **The Planning Commission forwarded a recommendation for APPROVAL with the request that their deliberations, discussion and reasoning go along to the Board by a 4 to 2 vote.** Continued from November 16, 2005.

Orjiako stated that he didn't have any comments regarding this item.

Steve Horenstein, Miller Nash, 500 East Broadway, Suite 400, Vancouver, referenced the letter and draft covenant dated December 1. He said they are serious about a restaurant and are proposing a voluntary covenant. Mr. Horenstein said the other proposed change is to keep a portion of the property in a zone that would be for residential or office purposes with the OR-18 zone. Horenstein said they are not proposing to put that zone on the corner of 94th and Hazel Dell Avenue and they need to get rid of the residential that's inside the project, south of 94th. The two parcels that would remain north of 94th they would propose be zoned OR-18 instead of the commercial they had requested. He stated that they have had conversations with Mr. Creager and he agrees with what they had attempted to explain to staff, which is that you cannot put 96 units there. He said they're not close to an agreement with him yet, but are willing to continue discussions. Horenstein said that Mr. Creager has suggested that OR-22 might

work better for him; however, Horenstein said he wasn't willing to go that far because they don't have that kind of an agreement and can solve some of those density issues with current planning tools. He summarized that their request is to slightly modify what was before the board previously; to provide a covenant for restaurant use at a location they determine on the site; and to give them OR-18 on the two parcels located north of 94th.

Kurt Creager, CEO of the Housing Authority, 2500 Main Street, Suite 200, Vancouver, referenced his written remarks, dated December 1, which goes into some detail regarding the plan policies and the duty to look at housing on the site. Creager said he thought the OR-18 was a reasonable accommodation to try and keep the door open for housing and that they would in good faith proceed with negotiations to try and make that a reality. He expressed support for the modification as presented by Mr. Horenstein.

There being no further public comment, **MOVED** by Boldt to approve CPZ2005-00070, Hazel Dell Towne Center.

Morris said she believed that amendment would include the re-drawn covenants.

Orjiako added that the amendment would include the request to go to OR-18.

Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 244)

CPZ2005-00086 – Scott Trust The property owner is seeking to rezone parcel 226050-000 for approximately 39.74 acres from Rural District (R-20) to Rural District (R-5) located south and east of the Camp Julianna portion of Lewisville Park and north of NE 137th Ave. The Planning Commission recommended **APPROVAL** to Rural District (R-10) by a 3 to 2 vote. Continued from November 15, 2005.

Mike Mabrey, Department of Community Development, presented. Mr. Mabrey stated that they have had discussions with the representatives and feel they have worked out most of the issues. He said in terms of the road, he went back to verify that there had been 20 feet of hard surface. He said that apparently the county had signed off on that when the last land division was completed. What they're proposing to include in the concomitant rezone agreement is a requirement binding on this property that when the site is developed in addition to the normal two-year maintenance agreement for their onsite roads, they would also be required to maintain the road leading to their site for two years. Mabrey said he thought there was some confusion about the board's direction regarding future lot sizes. What they understood was that the board wished this to develop with R-5 zoning, using the rural cluster development provisions, which would allow for 8 lots. Something that wasn't discussed was that the cluster development provisions require that the remainder lot constitute 65% of the site. So there would be 14 acres of developable area and the average lot size in that would be about 1¾-acres. In the board's

discussion there was mention of eight 2½-acre lots and that's what the applicant thought they would be getting. Mabrey said they haven't got a resolution in writing on that, but perhaps Mr. Lowry would speak to that as far as that they can't approve eight 2½-acre lots because it doesn't meet the cluster lot provisions and doesn't meet the minimum lot sizes of the zone. He said the final requirement was to put a conservation easement on the remainder parcel and they were in agreement with that.

Stuart asked Mr. Lowry for some options were regarding the number of lots and what they can do legally.

Morris wanted to know if they could not require that it develop under the cluster ordinance, but that it's done in 5's, with the requirement to cluster.

Rich Lowry, Prosecuting Attorney's Office, responded that the two options, if this was rezoned to 5 in terms of density, would be to develop it as 5-acre lots or to develop it under the cluster provisions. Mr. Lowry explained that under the cluster provisions, the maximum area that can be developed is dictated by the cluster ordinance, by the requirement that 65% of the parent parcel acreage be in the remainder lot. That gives you the development area for developable lots. He said there's no maximum lot size for a cluster, but under the mathematical requirements of the ordinance there are a maximum number of clustered lots that they can achieve, which is 8. Lowry further explained that it's simply a matter of what's in the remainder, which is dictated in the ordinance; what's developable and dividing that by 8 to get an average, or having some lots that are larger and some that are smaller.

Morris wanted to know where it says they have to develop under the cluster ordinance.

Lowry said it was his understanding that the board's discussion at the last meeting was that the concomitant rezone agreement would contemplate a cluster development. That clearly gives them the ability to create lots smaller than 5 acres.

Morris said clustering is different than developing under the cluster ordinance. She wanted to know why they couldn't rezone to 5's, with the requirement that they be clustered in a certain area. She said they are talking about 1½-acre lots and they've received correspondence from the neighbors that they don't even like the 2½-acre lots. She said she thought they had more latitude here because there's nothing in code that she knew of that says a cluster development must be done under the cluster ordinance. As a matter of fact, the cluster ordinance is an option.

Lowry said it is an option, but if they don't utilize that option then they would be required to create lots that were at least 5 acres in size under the base zoning. Through a concomitant rezone agreement, the board can add restrictions that go beyond zoning, but can't excuse compliant with zoning through a concomitant rezone agreement.

Morris wondered if it could be drawn so that you have 5's, cluster so each one is 5 and just very narrow at one point and then spread out.

Lowry said if they did not have a covenant, then the owner would have the option of developing a standard 5-acre division or coming in and complying with the cluster ordinance.

Boldt said he thought the intent was to go with a cluster ordinance because they wouldn't want the five different owners in critical lands. He further explained. He said he thought the reasoning for the cluster was because they would have the same amount of traffic regardless, but with the cluster ordinance the land would be protected.

Morris didn't disagree, but what they're doing is developing very small acreage lots.

Stuart agreed. He said if they're going to go to R-5 zoning, they're going to have 8 different houses there that would have impact on the roadways anyway. He said he thought going to that zoning was appropriate in that area, given the other zoning around it. He asked if they would have an average of 1.8 acres.

Mabrey said it would be 1¾ acres.

Stuart said they could mix and match and do whatever works for the applicant as far as the sizes to fit within that overall acreage they have in the cluster. He said he liked the idea of using the cluster ordinance and preserving the rest of the space for the people who live there.

Morris wanted to know what the minimum lot size was in the cluster.

Orjiako replied that it was 1 acre.

Morris asked if they could get 8 out of it.

Orjiako said they could. He explained that they have 40 acres and you take 65% of it and you have about 26-27 acres and the remainder is about 14 acres and they can do 8 on that 14. One or two of those lots could be 2½, but the remainder may be 1¾ or an acre—they are limited to the 8 acres. The remaining 14 acres can be divided or clustered in whatever manner they want, but it has to be a minimum of 1 acre.

Morris asked if the cluster ordinance required a common driveway.

Mabrey said no. He said they are basically talking about extending a private street.

Morris stated that she needed to leave and suggested they continue at 1 o'clock.

MOVED by Boldt to continue the public hearing until 1:00 p.m. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 244)

[Hearing reconvened]

Mabrey stated that there are two different ways of developing under the cluster ordinance: that the remainder parcel is also a buildable lot so it would be possible to have one 26-acre lot and seven 2-acre lots, for example.

[Public comment opened]

Christy Thompson, on behalf of the Linda S. Scott Trust, introduced her husband, Lawrence Thompson.

Lawrence Thompson, stated that he had talked with Mr. Mabrey and that staff has been very helpful. Mr. Thompson provided some background and presented some overhead maps. He said it was a loop idea they discussed for layout where on the westerly side there would a significant line that would be set aside as a conservation easement in perpetuity. He further explained. Thompson said he thought they could get there by giving R-5 and have a concomitant agreement that adds providing that a certain percentage of the lands are set aside at the time of platting for the preservation and consideration of habitat and neighboring park land. Or they could say that a certain number of acres be set aside in a line at the time of platting that the developer and Community Development staff have to get together on. He said he didn't think the people currently living on the easterly side wanted a plat that's close to them on that corner. Thompson said they believe that from the perspective of the buyers, he supposed it would be up to the homeowners' associations and with the conditions put on the plat to work out what maintenance is going to be done where internally. He said he hoped they could get there.

Boldt said that from the people he's talked to they would almost rather have a cluster and get the land down. He further explained. He asked if the clusters would grant the applicant just as much money.

Thompson said it possibly could. The alternate solution would be to overlay a homeowners' maintenance easement on the property. He explained that basically a person gets his acre lot and is subject to paying monthly dues and then the homeowners' association hires someone to come in and keep it up.

Morris had comments regarding the remainder lot if the board chose to go with the cluster. She said there is discussion somewhere about deeding the land to the county and she said they probably wouldn't take it because they cannot care for it.

[Public comment closed]

Stuart agreed that there is a lot of marketability in a cluster of 1 to 2 ½ acre parcels—there's a pent up demand for that kind of product. As far as the remainders go, if you do it in 5's and everyone has ownership of an area that has to be preserved in some sort of easement, then each owner is on the hook for the maintenance and preservation of that easement. So there's a burden there that wouldn't otherwise exist if you clustered and then put the rest in a remainder parcel. He said he did see some benefits in doing the clustering for the applicant and for the overall project.

Orjiako commented that this is a rural acreage and there is no upkeep that the county or property owners would be required to do.

Morris said it appeared then that the board was in agreement to approve the zone change as requested with the provisions of the concomitant agreement that call for development as a cluster ordinance, a road maintenance agreement, and conservation easement over the unbuildable portion of the remainder lot. As far as the road maintenance agreement, she wondered if two years was fair.

Mabrey said that two years was the current code requirement for maintenance of any new private street.

Stuart wondered if expansion of the private road was necessary for the additional houses that would be created, if there was any provision that the developer would be required to pay for it.

Mabrey said they originally had that provision in there as item C. The private road standard is 20 feet of hard surface and what they have out there now is about 10 feet of pavement with some gravel on the outside, which basically meets the 20-foot standard. Apparently the county approved that with the most recent land division on that road. He assumed that as the property comes in for development, they would review whether the existing road is adequate and, if not, they would have to improve the road to 20 feet.

Stuart wanted to know what would be in place to ensure the roadways would be taken care of.

[Discussion continued]

Morris said the normal way to do that would be as a part of the development review process rather than as the covenant rezone because those can be written as conditions of approval and at that point they have to have been tested against legal standards. If they meet the test of legal standards, then the hearings examiners would approve them as conditions and if they're not approved as conditions because they don't meet the legal standards, then there's always the option of bringing it before the board on appeal.

Boldt asked if the remainder lot would have a conservation easement.

Mabrey said there were two options: it could all be conservation easement; or it could be conservation easement over the majority of it, with a small buildable area.

Stuart said then they would have one big lot and seven smaller ones.

Mabrey said the smaller ones could be on average two acres.

Morris said that as far as the conservation easement, the provisions of the code are clear that you can't further subdivide or build another dwelling on that property until such time the urban growth boundaries should get there. She said the urban growth boundaries aren't going to get there. Depending on how a conservation easement is drafted can restrict access to the property. She said there was discussion about some sort of a buffer zone for the park, but she wasn't sure it needed one—it's a huge park. If it's a sensitive area, the issue of a conservation easement can, again, be dealt with at the development review stage.

Stuart said the boundaries may not go there for the next 20 or 40 years. He said if he remembered correctly in the 50-year vision for Battle Ground, this area was part of the City of Battle Ground. So to him it's important to have a conservation easement that ensures in perpetuity that that sensitive area stays out of the development inventory and remains in a natural state.

Morris wanted to know what makes it sensitive.

Stuart said it's relation with the East Fork of the Lewis River and the steep slopes there.

Gordy Euler, Department of Community Development, added that there are priority habitat and species—both points and buffers—along the west and north sides of the property.

Orjiako suggested that if the board wasn't comfortable with the conservation easement, they could just make it subject to the cluster ordinance and not design the plat at this hearing; they could deal with the design during the review period.

Morris said she would prefer they do that. They can indicate in the record that they would hope to see a conservation covenant along there, but she wasn't sure she wanted it to be any kind of a conservation covenant in that you can't touch it if you own it.

Mabrey said the provisions of the cluster ordinance are clear about how they deal with a remainder parcel and that is that there has to be a management plan.

There being no further public comment, **MOVED** by Boldt to approve CPZ2005-00086, Scott Family Trust, as proposed in the agreement with the exception of the conservation covenant, which the board would expect to see considered during the development review process. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 245)

CPZ2005-00064 – Warman The property owner is seeking to redesignate and rezone parcels 172542-000 and 172556-000 for approximately 45 acres from Agriculture (AG-20) to Rural District (R-5) located at 3620 NE Ingle Road, Vancouver. The Planning Commission recommended **APPROVAL** by a 4 to 2 vote. Continued from November 16, 2005.

Euler stated that the applicant wants to change the zoning of approximately 46 acres of Ag land to R-5 zoning. He said that what's interesting about this property is that there's a private water ski facility there and the southern parcel isn't being used for agriculture. The parcel that's located across NE Ingle Road is currently in R-10 and the applicant wishes to go to R-5. Euler said there is currently Ag located on both sides of the property—the southern part is somewhat environmentally constrained and the piece located to the east of the lake is a fish and wildlife mitigation piece of property. He noted that the western boundary of the parcel is currently in the Camas proposal for an urban growth boundary expansion.

Stuart asked if the subject property was included in the dotted lines created by the board.

Euler pointed it out on the map and said it's in the latest draft discussion map.

James Howsley, Miller Nash, 500 East Broadway, Suite 400, Vancouver, attorney for the applicant, Mr. and Mrs. Warman, provided some history regarding the property. Mr. Howsley stated that the Warman's retained his father, Richard Howsley, in November of 2000 to pursue a plan amendment pursuant to a docket request. He referenced a letter submitted to the board, which outlined the timeline and exhibits. He said the request at that time was to get the property out of Agricultural lands and go to an R-5 designation. He further explained. He said that in March 2001 the Board of County Commissioners had agreed that all site-specific requests would be rolled into the 5-year update of the comprehensive plan in accordance with the GMA. In April of 2001, the board decided to integrate the 5-year comprehensive plan update into the 10-year urban growth boundary review. In October of 2002, the board decided to halt all annual review requests because of the ongoing update of the annual review. Howsley stated that

from October 2002 through September 2004, they attempted to pursue a change to R-5 as part of the GMA update and they did have a discussion at that time regarding the possible inclusion of the property within the Camas urban growth area. In 2003, the board decided not to address rural land requests as part of the ten-year urban growth boundary update; however, in October 2003, they provided testimony at the Planning Commission as to the medical conditions, which have spurred this request of Mrs. Warman. In September 2004, the board adopted a new comprehensive plan map and new urban growth areas, not including the Green Mountain area. In November of last year, they filed this annual review request. In August of 2005, the Planning Commission held a hearing and recommended approval of the north property, north of Ingle Road, to change from AG-20 to R-5; and for the property south of Ingle Road they agreed to a proposal that the northern 5+ acres be split-zoned to R-5, with the remaining parcel moving south from the lake to be kept in AG-20.

Morris asked Howsley to point out where that split would occur.

Howsley pointed it out on the overhead map and said it would occur just north of the Lake. He further explained.

Morris wanted to know what the total acreage would be of the portions that would change.

Howsley said it would be a bit more than 10 acres on the northern parts north of Ingle Road, and a little more than 5 acres on the parcel south of Ingle Road.

Euler added that it would be out of a total of 46 acres.

Howsley addressed staff's concerns in terms of the discussion from the Planning Commission. He said he thought staff was mainly concerned that because this parcel would essentially be a finger down into the AG-20 on either side of the property, the compromise developed at the Planning Commission to have the parcel from the lake south remain in AG, would seem to address those concerns. The property to the west is actively used for the Anderson Dairy, but the property to the east is a WDFW mitigation site—both habitat and wetlands—that was there as part of the Green Mountain Golf Course. Howsley said they recognize that the City of Camas has proposed to include this property into its UGA, but their position is that they would still like to keep the property out of the Camas UGA at this time and continue with the R-5 request. He said they believe in doing so it would provide a good buffer because of the lake and its existing use to the lands to the west and for the property north of Ingle, it would provide an additional buffer transitioning from Green Mountain Golf Course to Green Mountain itself, which is owned by the county and subject to the DNR restriction.

Boldt said that they would get two buildable lots in the north and asked if they would get two buildable lots in the south.

Howsley said no, they would get one additional buildable lot and one lot on the south side on the north 5+ acres.

Stuart clarified that if they put it in to R-5 and then it comes into the boundaries, they would be defeating the purpose of bringing it into the boundaries because they'd have parcelized it at that point. The applicant would rather go with the R-5 zoning than come into the boundary.

Howsley confirmed that was correct. He said there's good logic in that because you're not going to recover that much developable land on the skinny parcel because there's an existing business there. He further explained. He reiterated that it would be their request to maintain the R-5 and that it provides a nice transition going into the more rural uses to the west and to the Green Mountain property, which is owned by the county.

Stuart agreed that it's a nice transition. He asked if the idea was to then keep the water ski lake operational.

Howsley said yes, that would be one of the other benefits of this that it helps separate that portion for liability purposes.

Morris asked Howsley if he would like for the board to ensure that this does not go into the urban growth boundary within a week.

Howsley said yes.

Boldt asked Howsley if they did the split zone just north of the road and had AG south of the road, would they still get what they wanted.

Howsley responded that they would like the split zone so they could create a separate lot.

Morris said that right now they could put one more rooftop for a total of two. The change in the zoning could give them three rooftops—was that correct?

Howsley said yes, in theory.

Morris said they could get three rooftops if only the part to the north were changed and not the part to the south—was that correct? They could still get their three without rezoning the bottom.

Stuart said they would have to own the whole piece.

Howsley explained that the water ski operation was owned by a separate legal entity. He said the north parcel—north of the road—is a different legal lot.

Morris said that south of the road it's all one tax parcel and they could put one house on it. Also, if they gave them R-5 on the north, they could put a rooftop there.

Howsley said that was correct.

Morris said they have three rooftops no matter how they do it. She said that at this point in the game when they're dealing with so many AG issues in the comprehensive plan, she was straining to find a way to do this. She said they need to have discussions about the viability of the agriculture and if most of the land is covered with water, they're not growing much on it. Morris said she's trying to figure out why they'd rather have this in 5's versus being in the urban growth boundary.

Howsley explained that the real reason for the request is because the Warman's would like to build another house for themselves on that northern parcel, north of Ingle, due to Mrs. Warman's medical condition, which doesn't allow her to ambulate up and down stairs. They would like to build a one-story house for their personal residence and would rather have five acres and not have to go through the subdivision process.

Boldt said they could do that if they just zoned the north 5's and left the south in AG—they would still get three rooftops, as Commissioner Morris stated.

Howsley said it would be their preference to have the entire property zoned R-5 because they don't believe the property meets Clark County Code, Clark Comprehensive Plan, the GMA, or the WAC criteria for viable, commercial agricultural land because it has a water ski lake on it. The parcel to the south is riddled with critical areas and clearly doesn't meet the definition. Where they came to a compromise at the Planning Commission was to address the compatibility issue with what was both on the west side and east side of the property.

Stuart said that during recent discussion with staff regarding growth update-related issues, they talked about the need to discuss the state of agriculture because it's going to come up in their habitat ordinance, wetlands ordinance, growth update, and annual reviews. There's a lot of information that they can begin to put together in the next year and it's something he would like to pursue. As far as this one and his own view of what farming is in Clark County, he would say they should put it all in R-5 because it's not a farm. From an urban growth boundary perspective, if they'd rather be out than in and if there's AG-20 on the west side that is viable and is being farmed, then R-5 is a nice transition zone. Stuart said that from a planning perspective, he'd rather see it all go R-5 and didn't see the benefit of keeping the southern area in AG.

Euler said that at the time the application came in he didn't believe there was the possibility of it being in the Camas urban growth boundary. He said staff recognizes that it's not viable AG land. He said their concern is that there's a whole broad swatch of agriculture in the area and they would be creating a finger of R-5 that splits it right down the middle.

Howsley referred to a case from December 2000, which has to do with not allowing active recreational uses on designated AG lands. He pointed out that this is an active recreational use.

Euler said it's under a conditional use permit.

Morris wanted to know what it was zoned in '88.

Howsley said he believed it was Rural-Estate.

Morris said she didn't have any trouble with the parcel north of the road. She asked Lowry if they were secure that they are doing findings that would satisfy the hearings board on this. She said that for next year the board has expressed the desire of establishing criteria to use for AG land and they have to prove their work; this one would be easier to do once they've finished that work versus doing it now. Morris stated that at this time she wasn't secure that they would be able to sustain an appeal on the south part, but she wouldn't mind addressing this next year once they've developed the criteria.
Lowry said if they just focus on this one parcel he thought they had plenty of evidence to support a finding that this is not long-term commercially viable AG land; however, the problem with that is that both under the [inaudible] guidelines and under the way the county has historically approached resource lands, they don't do designations on a parcel-specific basis, they do them on an area-wide basis, which is the reason staff was uncomfortable with the finger coming down into the area. He said he thought the hearings board, if faced with that issue, would also have problems with what they would call de-designating the AG land for the entire parcel. Lowry said he didn't think they would have a problem with the northerly piece on the other side of the road and probably wouldn't have a problem with the northerly 5-acres of the southerly long, narrow [inaudible]. He said his understanding was that this was being requested so that they could segregate the ownership on that parcel to put the recreational use in different ownership than any new residence that would be placed on the property. Lowry said he thought a hearings board would say, in looking at this property individually, they're going about it wrong and need to do it on an area-wide basis. As far as doing it on an area-wide basis, it's premature to do it now because all they've got is that one piece. They should do it when they're looking at the AG question more globally. He said that's the reason the Planning Commission came up with their compromise, which he thought was highly unlikely to be challenged. Whereas, if they designated the entire property, it's more likely it would be challenged and is more dispensable.

Morris asked if he thought the Planning Commission recommendation was defensible.

Lowry said yes.

Stuart said he was fine with that. As far as the southern part, it was a question they would need to discuss in the next year because if the hearings board doesn't like the idea of going to R-5, he doubted they would like the idea of it being brought into an urban boundary. He said that perhaps it was something they should delay until next year and then once they have the information in hand they can move forward with the southern part. He suggested that for now they accept the Planning Commission recommendation, with the understanding that all those pieces would come out of the dotted lines on the growth map.

Morris said she felt better about using the Planning Commission compromise after hearing what Mr. Lowry had to say.

There being no further comment, **MOVED** by Boldt to approve CPZ2005-00064. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 244)

CPZ2005-00065 - Anderson The property owner is seeking to redesignate and rezone parcel 213015-000 for approximately 29.24 acres from Agriculture (AG) to Rural District (R-5) located at 4604 NW 289th Street, Ridgefield. The Planning Commission recommended **DENIAL** by a 4 to 1 vote. Continued from November 16, 2005.

Euler stated that the Anderson parcel is approximately 29 acres located north of Ridgefield on NE 289th Avenue, and the proposal is to change it from AG-20 to R-5. Euler said that he visited the property and it's surrounded by agricultural use, with a chestnut orchard to the northeast; remnants of an orchard to the south; horses grazing on the large parcel to the south; and the R-5 parcels located to the west appeared to have pasturage on them. He said staff has recommended to the Planning Commission that this remain as AG for that reason and the Planning Commission upheld that recommendation by a 4 to 1 vote.

Morris wanted to know if all of that area was zoned AG-20.

Euler responded.

Morris asked if the AG-20 was an industrial overlay within the Ridgefield urban growth boundary.

Orjiako said it is AG with residential reserve overlay.

James Howsley, Miller Nash, 500 East Broadway, Suite 400, Vancouver, representative for Mr. Anderson, referenced the letter he submitted to the board and provided history. He said that in March 2001 the Board of County Commissioners decided that all site-specific requests be rolled into the 5-year plan review. In April 2001, the board decided that the 5-year and 10-year review should be married. In July 2002, Mr. Anderson retained Richard Howsley to represent him in a docket request before the board. In October 2002, the board decided to halt the annual review process and so they have not been able to bring this request forward until now. Mr. Howsley stated that in November 2002 they requested a change in accordance with the update to go from AG-20 to R-5. They pursued that request from October 2002 to September 2004. In 2003, the board again decided to not address rural requests in the GMA process; however, they provided testimony to the Planning Commission in October 2003 despite the board's policy. In September 2004 the board adopted new comprehensive plans, making no changes to the rural areas, with the exception of those lands brought in. Finally, in November 2004 they filed an annual review request that is before the board today. In August 2005 the Planning Commission held a hearing on this request and during the summer there was discussion with the ongoing urban growth boundary update. Howsley said the crux of their request is that from their position they do not believe that this property qualifies as AG land, either under County Code, the County Comprehensive Plan, the Growth Management Act, or the WAC. He further explained that the property has hydric soils over a majority of the property; there are wetlands present on the site, as well as riparian area on the property, and also adjacent to the property. There are also white oaks that predominate the northern end of the parcel. He said they realize that the county is in the process of updating its critical areas ordinances to comply with best available science and because this property has critical areas on it, it would be impossible to begin productive, commercial viable agricultural farming on the property. Howsley presented some overhead maps and pointed out the existing house. He said that given the fact that the hearings board and the courts have been consistent that if you have agricultural lands that have critical areas, you're still required to regulate those critical areas even though on AG land. He said in the proposal they had suggested the possibility of doing a cluster subdivision on the property and they believe they can get some lots while maintaining the northern half in a separate tract with the existing house and preserving the wetlands, white oak habitat and other habitat areas. He said one of the suggestions for the remainder of that area is that it would be a great site for some mitigation opportunities in the Alan Canyon tributary.

Boldt wanted to know if it was all hydric soils.

Howsley said he thought hydric soils predominated the site—about 66%. He addressed the issue of the chestnut farm and presented an aerial photo. He said they question the commercial viability of the chestnut farm and said it's his understanding that it has taken the owners 8 or 9 years to get the trees to where they're yielding $12,000 income, which isn't a livable wage even for an individual. He reiterated that they believe they have demonstrated that this parcel doesn't

qualify as long-term commercially viable agricultural land and the better use would be for a cluster.

Dick Anderson commented.

Howsley referenced a letter from Mr. Anderson indicating that he had looked at trying to accommodate some sort of agricultural use, but everything they looked at doesn't rise to the level of commercial viability, including hay, cattle, and horses.

Anderson added that the one viable use would be for raising families.

Morris asked how many acres Mr. Anderson had.

Anderson said he had slightly over 29 acres.

Boldt said he would like to give the owner's their request because they want lots; however, he's also trying to look down the road in two years when perhaps they might look at a bigger picture.

Morris said hopefully it would only be a year down the road.

Stuart agreed that next year would be a good time to have the conversation.

Howsley stated that it isn't Mr. Anderson's intention to run out and apply for a short plat and they realize the board has indicated their plan to address the agricultural lands next year. He said if it would be the board's pleasure to go ahead and move for an amendment at this time with a condition that they don't do anything on the property until the issue has been revisited, they would be amenable to that provided they have the opportunity to bring this parcel up again when that review occurs.

Morris said she thought it would cause them legal problems. She said the issue of the critical areas is one of which they are undecided yet. They don't require regulation of agriculture according to the critical area ordinances and have sent it back to have discussion about how they would approach that topic and a task force is working on it. She told Mr. Anderson that she would be willing to commit to putting it on the docket next year, which would cost him nothing. She further explained. She said she didn't think his property was viable as commercial agriculture and agreed with Commissioner Boldt that most of the viable land has been developed. Morris said there's also the possibility that the legislature this year may decide that agriculture is considered an existing use and is, therefore, exempt from application of the critical area ordinances. She agreed with Commissioner Boldt that they delay until next year and put

Mr. Anderson on the docket. She added that the board would have to make some very legitimate findings in order to be able to sustain a decision against an appeal on this.

Stuart said he didn't think farming is dead in this county, but that it is different. And to have large parcels locked up for farming results in them locking up the land for open space instead of locking it up for viable commercial farming and he didn't think that was fair. He said it's a battle they would have to fight.

Boldt commented that it's typical of a farm in Clark County in which the owners are exhausted, can't make any money, and want to split it up. He further explained.

Morris asked Mr. Lowry if they could create new AG zoning with smaller lot sizes.

Lowry said they could. He said legislature has adopted a provision for varying sizes of AG land.

Morris said that needs to be a part of their consideration.

Lowry agreed with the board's discussion that their deliberations are on a policy level and not on a level of really looking at this piece of property and whether it meets or does not meet the generalized criteria for AG land that were originally employed. They are looking at whether or not those original criteria need to be revisited and that's an analysis that really needs to take place in a different forum than an annual review.

Howsley said that's kind of difficult because how does a property owner get into the process in order to effect a change when the only way they have available to them is through the annual review process. He said that process has been shut down to them since 2002 and this has been their only opportunity thus far to get into the process.

Morris said that was correct, but she thought it would be a unanimous commitment to bring this through on the docket process next year and reconsider the discussion. In the meantime, they do intend to examine the criteria for AG and talk about whether or not they need to create some other agricultural zones.

Anderson said he respected the board's decision; however, for the record he wanted to state that he thought they all recognized that the parcel really is not viable farmland.

Morris thanked Mr. Howsley for raising the issue of regulating AG and asked Mr. Snell to make a note that they would have to build into the discussion regarding viability, that if they do have to impose those kinds of regulations on it, at what point does that regulation actually make it unusable for agriculture. They would need to quantify that in their discussions about viable AG land.

There being no further public comment, **MOVED** by Boldt to approve Docket Item CPZ2005-00065, Anderson, affirming the Planning Commission's recommendation of denial and to request staff to add it to the annual docket review for consideration next year (2006). Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 245)

CPZ2005-00063 – Felida Park The property owners are seeking to redesignate and rezone the northern portion of parcel 187767-000 for a total of approximately 1.4 acres from Community Commercial (C-3) to Urban Medium (R-18) located on NW 122nd Street just west of NW 36th Avenue, Vancouver. The Planning Commission recommended **APPROVAL** by a 6 to 0 vote. Continued from November 15, 2005.

Mabrey said the driveway issue boiled down to simply that the applicant has offered to do shared driveways so there would be one for each pair of units and if there is any odd number of units, the last one would get its own driveway. He said the applicant has also offered to provide a minimum of three onsite parking spaces, which includes the garages and driveways for each unit. He said the issue that remains is that if that is acceptable, they would end up with 9 to 10 driveways along the frontage of this parcel. They have suggested another alternative that may or may not get to the same density, but it would meet the minimum density standards, and that would be two private roads that are double loaded so there would be 4 to 5 lots on each side, 20 feet wide in a 30 foot easement. They would be short and no turnaround would be required. Mabrey said those were the two options.

Meridee Pabst, Miller Nash, 500 East Broadway, Suite 400, Vancouver, representative for the applicant, stated that the applicant is proposing the shared driveways. She said they have proposed conditions they believe can help mitigate the potential impacts from the project, but there's no design yet and they don't know if it can be done without talking with people in current planning and the developer's engineers.

Morris wanted to know what the proposal from the applicant was in terms of how many driveways.

Pabst said it would most likely be nine shared driveways due to the lot width that would be required.

Morris asked what the length of the property was.

Mabrey said it was 465 feet so if they stick with the minimum 25-foot lot width requirement, they would get 18 lots; 9 to 10 driveways on a block.

Stuart asked how far apart they would be.

Pabst responded.

Mabrey said if it were zoned R-15, there could be a bank of houses with 9 or 10 driveways.

Morris asked what the proposed zone change was.

Orjiako said it would be from commercial to R-18.

Mabrey said in essense they would lose a considerable amount of on-street parking on the north side if they approved R-18 zoning with joint driveways, and that's been the concern the neighbors have expressed and what they're trying to work out.

Pabst said that's part of the reason they've offered to provide free off-street parking spaces. She further explained.

Morris indicated that she wanted to ask Mr. Lowry about this because it's a comprehensive plan change and they have to meet the test of the comprehensive plan change language. In order to do that they would have to say they had made a mistake, there was a substantial change of circumstances, or there was some other findings they have to make. She asked Mr. Orjiako if he was satisfied that they have made those.

Orjiako said yes, in general.

Morris asked Stuart how many driveways were on his street, on a block.

Stuart said they have alleyways, but as far as houses if they all had driveways, on one block they would have 8. He said he was okay with the change and as far as how they do the traffic management in the area, if it's going to be about the same as it would be for R-15 or R-175 as far as the number of driveways, and if there has been comitment to make sure that there's more opportunity for off-street parking, that gives him enough assurance that this would be done in a way that would not negatively impact the neighborhood.

Boldt agreed with Stuart.

Bob Carpenter, 4114 NW 122nd Street, said his concern has been the number of driveways primarily in light of the number of driveways that have already been approved on the southside of 122nd—approximately 22 driveways. He said the lots on the south are 30 feet wide and if it's rezoned to R-18, he questioned what the width of the lots would be.

Mabrey said the minimum width in the townhouse ordinance is 25 feet so it all depends on how much depth you have as well.

Carpenter said it would be safe to assume then that the lots to the north would be 30 feet wide. At 465 feet in length and 30 feet wide, the result would be 15 driveways.

Morris stated that they are going to limit the number of driveways and are only discussing what the number is.

Carpenter referenced the applicant's draft covenant that would restrict those driveways to one driveway per two units, but his concern about that is that the wording leaves it open that they could have one driveway. He asked if that meant when they have two 15-foot driveways with them so close together like that, they would have to put one flat 30-foot wide driveway drop. He further explained. He said there should be some language that says "limited to one 20-foot driveway for the two…"

Stuart asked if they had standards for the width of driveways.

Mabrey said that for a joint-use driveway the minimim width is 20 feet. It doesn't specify a maximum width.

Morris suggested that this is not the point to get into the design of the subdivision, but that it was a matter for staff in a different division. She said the issue before them was whether or not they were going to rezone this to R-18 and, if so, what conditions would they impose in terms of the maximum number of driveways. Morris said the applicant has suggested 9 and staff has suggested a design that is only 2 and the applicant has justifiably objected to that much of a limitation to the design because they don't know how the ground will work when they begin to lay it out from an engineering perspective. She suggested that the motion should include a covenant that there be no more than 9 driveways and that the board would prefer to see a design that minimizes that. Morris said she would like to ask the applicant if they would be diligent enough to pursue that and investigate it in terms of a design. She noted that a work session was scheduled for early in 2006 regarding the number of driveways that they would limit.

Orjiako added that they are currently working with Public Works and identifying the issues that need to be addressed in that work session, including what they really allow in R-18 so that they deal with that issue also.

Stuart agreed with Commissioner Morris that there are other avenues for the specific discussion about the width of the driveway, but that as long as they set the policy guidance that will provide an avenue for someone to pursue.

Carpenter said as far as the covenant, he would ask that the language be changed to a certain minimum number or certain width driveway as opposed to how it's currently written, which doesn't have any teeth.

Morris said she would need the 9 driveway limit to be specified in order to move forward.

Lowry said he thought they could add that to the covenant and that they could have a general requirement to design in a way that reasonably limits the number of access points, which in no event shall exceed 9.

There being no further public comment, **MOVED** by Boldt to approve Docket Item CPZ2005-00063, Felida Park, with the covenant language as amended per Rich Lowry, Prosecuting Attorney's Office. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 245)

CPZ2005-00098 – Docket (Woodland School District Capital Facilities Plan) The school district's updated capital facilities plan and a request to impose school impact fees pursuant to Section 40.620.030.

Orjiako stated that the request was to impose single-family impact fees of $2,750 and $650 for multi-family for that portion of Woodland that's located within Clark County. He said this went to the Planning Commission and they recommended approval by a 6 to 0 vote. He said when this case went before the Planning Commission, staff did not make a recommendation recognizing that this matter came to the county in the past and the county made a conditional approval subject to Cowlitz County and the City of Woodland adopting a school impact fee for the Woodland School District.

LeAnne Bremer, Miller Nash, 500 East Broadway, Vancouver, representative for Woodland School District, introduced Bill Hunley, the Superintendent of the school district. Ms. Bremer requested that Clark County adopt the Woodland School District Capital Facilities and Impact Fee request as outlined by Oliver. She presented history. She said Cowlitz County is non-GMA and can impose impact fees under SEPA. Bremer said the School Board looked at their policy and decided that they wanted to seek impact fees in the jurisdictions where they could get them. The City of Woodland adopted the impact fee last month and are collecting it now for the district. She requested that the Board adopt the plan and the fee.

Stuart asked if this was the same fee that was adopted for the City of Woodland.

Bremer responded yes.

There being no further public comment, **MOVED** by Boldt to approve Docket Item CPZ2005-0098, Woodland School District Capital Facilities Plan. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See tape 245)

CPZ2005-00067 - Hinton The property owner is seeking to redesignate and rezone parcels 106116-000 and 156201-000 from Light Manufacturing (ML) to General Commercial (CH) for approximately 14.6 acres located at the intersection of Andresen Road and NE 88th Street. NE 162nd Avenue. The Planning Commission recommended **APPROVAL** by a 5 to 1 vote; **AND**

CPZ2005-00069 - NE 117th Avenue The property owner is seeking to redesignate and rezone parcel 158435-000 for approximately 9.4 acres from Light Manufacturing (ML) to General Commercial (CH) located near the 6900 block of NE 117th Avenue. The Planning Commission recommended **DENIAL** by a 3 to 2 vote.

Randy Printz, 805 Broadway, Vancouver, representative for the applicant, stated that he would like to do both docket items CPZ2005-00067 and 69 together because they are both on a commercial node and the issues are very similar for both applications. He began with CPZ2005-00067, Hinton.

Orjiako referenced the NE 117th Avenue case and noted that the Planning Commission's vote was 3 to 2 for denial. The Planning Commission recommended approval on the Hinton case by a 5 to 1 vote.

Printz explained why they were making the request and presented an aerial map – ML since 1979, truck/trailer storage for over 15 years, continually marketed property. In these cases, the UGA/UGB is far north of these properties. He said he was on the Economic Development Committee that identified particular areas in the county that were important for economic development. This was not one of the focused investment areas. Mr. Printz said the primary reason this was zoned as industrial in 1979 and has remained so since that time is because it has essentially been used as a storage yard and more closely resembled an industrial use than anything else. He said currently there is no legal access from this parcel to the railroad tracks—it's a half mile away with two or three intervening parcels and they have no legal access and there are no rail spurs. The property located immediately to the west—the triangular piece—has gone through development review and is platted and there is no ability for the piece to ever get to the railroad. Printz said it was important to recognize that the Comp Plan itself is a policy document and the goals and policies are planning tools, not regulatory scalpels. He further explained. He then commented on the staff report and noted that many of the staff involved in writing the staff report are no longer with the county and so comments may or may not be shared with current staff. He said the staff report states that the Comp Plan strongly discourages new highway commercial, but that's not true. He said there's no place in the Comp Plan that

says that, but what it says is that it strongly discourages new strip development. Also, staff stated that the Comp Plan strongly discourages the conversion of industrial land, which he agreed with in general; however, the Comp Plan doesn't state that you cannot convert industrial land and specifically provides for mechanisms for which to do that. Printz stated that for the Comp Plan that was originally developed for the county from 1994, 11,000 acres of industrial was ultimately put on the map because there were a lot of other parcels out there that either had some sort of industrial use on them at the time or that was just what the county painted them. He said that everything on the map that was blue wasn't intended to be in the category of the 3,000 acres of prime. The staff report cites that the "community [inaudible] plan encourages growth in centers, urban and rural, with each center separate and distinct. The centers are oriented and developed around neighborhoods to allow residents to more easily move through them." He stated that there is a misquote in the Comp Plan and what the language actually says is, "the community [inaudible] plan encourages growth in urban growth areas and rural centers." That provision in the Comp Plan is designed to talk about how you establish urban growth areas. Also, one of the conclusions reached in the staff report was that the site is not conveniently accessible; however, Printz said there are few sites in the county that could be more accessible. He further explained. He said that the most significant issue in the staff report was whether or not this application could meet the Comp Plan criteria regarding getting over the no net loss hurdle. He said the board added 30 or 40 parcels to the ML inventory through emergency ordinances after the 2004 Comp Plan was adopted. They came out of BP, but BP is not an allowed use in the ML zone. Even if the board were to uphold the Planning Commission's recommendation, there would still be a surplus of 119 acres net. He then talked about the locational criteria and said that staff makes a strong point in the staff report stating that "Highway Commercial is only to be applied to existing strip commercial." He stated that that's not what the Comp Plan says. He provided examples and referenced some aerial maps. He said the assertion in the staff report that they can't meet the locational criteria because only Highway Commercial is supposed to be applied to existing Strip Commercial isn't true.

Morris wanted to know who provided services such as fire, water, sewer.

Printz said he thought for fire it was Fire District 5 and for sewer and water he thought it was CPU and Hazel Dell Sewer District. He said he could confirm that.

Eric Hovee, Economic Consultant, 2408 Main Street, addressed four questions that came up in the staff review of the proposal related to questions of economic need and benefit. The questions related to the relative tax benefits would be of industrial versus commercial development of the site; jobs and wage questions; the need for commercial retail; and more commentary on no net loss.

Mr. Hovee stated that as far as tax benefits, with the 1% cap on property taxes that puts retail sales tax into much more of a forefront position in terms of having some elasticity of growth

potential in the future. For this site they looked at what it could be if it were developed as a business park or light industrial and then compared that to potential retail development on the site and the property taxes would be roughly equivalent, although retail is probably a bit more. He said the real difference comes in the sales tax benefits. When you take that out over a 20-year period what you get as an industrial use is $1.4 million over 20 years in a net present value sense, and if it were done as commercial you would get about $12 million. The main reason for that difference has to do with the retail sales tax and its growth potential, which is much greater than with property tax.

Hovee said the second question was relative to jobs and wages and their conclusion was that industrial or commercial would deliver about the same number of jobs and the question then becomes, what's the quality of those jobs in terms of wages? The common perception is that industrial pays more than retail and in general that's true, but you have to look at the specific types of industrial versus commercial. He said examples such as Costco and Home Depot are uses that tend to pay very high wages per hour, with Costco paying an average wage that's above the Clark County average. If you look at the trucking and warehousing use that's on the site today, that tends to be a relatively low-paying job even though it's industrial. So the wage issue is one that could actually work to the benefit of retail, especially the type of retail that has worked in this particular location.

As far as the need for commercial, Hovee stated that they looked at all the commercial sites in the county and looked at what the need would be in the future. He said they identified a need of over the next 20 years of about 805 acres and further classified that need into large versus small sites and the greater need is for the large sites. He said there's only one site in the county that's zoned commercial that's more than 10 acres in size and there's really nothing over 15 acres, so this helps meet that need and at a location that provides ideal transportation access in the county.

Hovee then talked about the no net loss provisions and said there are several exceptions provided for changing from industrial to commercial within the context of no net loss. He said one of the criterion relates to whether conversion to prime industrial status is not readily feasible; however, their evaluation suggested that it would be very difficult to convert it to prime status because of the triangular nature of the site, its access limitations and the low-lying nature of it, which makes if difficult to make to bring it up to standard. He said in this particular case, commercial use would support a land value that's anywhere from two to four times more than what the industrial land value would be. That brings the ability to address a lot of the site issues and makes it a more productive site than what it currently is.

The final question was whether there were other replacement sites available within Clark County and Mr. Hovee stated that they supportive of the need for additional industrial site, but that there needs to be sites that can be ready to be built and sites that are appropriate for industrial.

He said their conclusion is that this site was well suited for industrial, but was very appropriate for commercial and a very desirable and valued location for that type of use.

Stuart said that as far as no net loss these specific circumstances tend to lead toward bigger policy discussions and the question of "what is no net loss in this county?" Is it a no net loss of wages, acreage, types of uses, etc.? He said it's something he would be interested in pursuing as they do the Comp Plan.

Hovee said Commissioner Stuart's observation squares with what they're seeing in terms of the economic data about the way the economy is changing. The old generalizations don't always hold. Part of the challenge of the future is to get much more specific about the uses and the land they're suited to.

Orjiako referenced Commissioner Morris' question about who services the area and confirmed that it was Hazel Dell Sewer District for sewer and Clark Public Utilities District for water.

[There was brief discussion about how best to proceed.]

Orjiako stated that, in general, the no net loss was still an issue. Also, the decision the board made relative to BP to ML was significant to this application. He said it was a blurry line between BP and ML and when looking at the uses he could say that BP, in general, could be considered as ML—that's pushing the envelope in his opinion. He said he thought the board would still have to wrestle with the no net loss issue for this particular application.

Morris said it is a curious thing about the no net loss and the BP switch, but there must have been some things that were allowed in light manufacturing that were not allowed in BP otherwise they wouldn't have had people asking to make the change. She agreed that there is a fine line and she wasn't sure who was crossing it. She said the staff report talked about what they believed to have been a scrivener's error in a Comprehensive Plan policy, but it's a little bit late to be talking about the scrivener's error and ignoring it. She further explained. She stated that if there is a scrivener's error, it should have been brought forward for a change in the Comprehensive Plan text language, which it wasn't. Morris thought it was an issue for them in this case, as well as the 117th Street zone change. She said they need to have some discussion about it and it needs to be considered discussion so that they are developing a sustainable record.

Lowry stated that there were several changes to the no net loss policy last year, which work at counter-purpose when it comes to this application. One is to specifically put BP into the no net loss. So BP and industrial land are sort of co-equals when it comes to the no net loss policy now. On the other hand, the board also modified the no net loss policy by providing three criteria, the first being that lands can't be improved to prime. He said the no net loss issue was

in the Comp Plan because of remand from the hearings board. He explained that the hearings board was concerned about secondary and tertiary industrial and the fact that we had such an ocean of secondary and tertiary and that, in fact, those were just residential lands that were hiding under the designation of industrial. Despite assurances that that wasn't going to happen, the county got a remand and they adopted the no net loss policy, which originally only applied to secondary and tertiary. So they didn't have a no net loss policy for prime industrial land, which was strange. The second criterion was that a non-industrial or employment center designation is more appropriate. The third criteria was that they back-fill with new designations within the UGA. However, what the board did last year—and staff correctly believes is a scrivener's error—was to link those three criteria with an "or" when it should have been "and." So a literal reading of the no net loss policy today you can meet by showing either that the lands can't be improved to prime; that a non-industrial or employment center designation is more appropriate; or that you have backfill. He said he didn't think that was what was intended, but that's what the code currently provides and is actually on the agenda later on for a language change.

Printz said it was fine even if they took that interpretation. He said they meet the test.

Lowry said that what doesn't help is that the BP is on the same footing as industrial so you can't take the emergency amendments back to industrial as adding inventory.

Printz said he disagreed because of the specific language there. He said the PC addressed the issue specifically. He said he agreed that you could read 1, 2, and 3 as being "ors" or "ands" and he was fine with it being conjunctive as opposed to disjunctive. Printz said he thought they met all three. He said if they read the language in #3—even if they have to meet it, along with the others—it says that "you will not achieve a net loss of business park, office campus, and industrial," and his reading of that is that you cannot have a net loss of business park, or office campus, or industrial lands. He said that in terms of this application they do not have a net loss of industrial because since the 2004 plan 134.57 acres has been added.

Stuart said that because of what was done last year, including BP with industrial as part of the no net loss, he wasn't sure he had the same interpretation of that language, but it's a longer discussion that isn't necessary to have because they only needed to have one of the three criteria. He said for his part he was happy to go forward with this, but he was concerned about the no net loss from the standpoint of wages. He said Mr. Hovee talked about Costco and Home Depot in terms of wages, but there's also Wal-Mart on the other end of the spectrum. Stuart wanted to know what prevented this from becoming a Wal-Mart.

Printz said that was a great issue to have a bigger policy discussion on.

Morris asked Mr. Lowry if they could state in the covenant that it shall not be used for a Wal-Mart.

Printz said that would be fine.

Morris asked if they could do that.

Lowry said he didn't see a problem if it's volunteered by the applicant.

Mayor Paul Dennis, City of Camas, pointed out that most of the issues related to 117th Street were the same and so when they do get to that case, he wouldn't reiterate everything already said by Mr. Hovee. However, Mayor Dennis said he would mention some specific things that make 117th a bit different than the site on 88th.

There being no further comment, **MOVED** by Boldt to approve CPZ2005-00067, Hinton, with a covenant stating that a Wal-Mart will not be permitted on the site.

Morris noted that there was one more person listed on the sign-in sheet as a party of record: Mark Ferris of Tigard, Oregon. She asked Mr. Ferris if he was a party of record because he was planning to appeal.

Mark Ferris, Zimmer Development, Tigard, Oregon, responded that they were the property owners of the parcel located immediately west. He added that at this time they are not planning on appealing.

Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 246)

CPZ2005-00066 - Lusk The property owner is seeking to redesignate and rezone parcels 155968-284 and 155968-276 for approximately 4.7 acres from General Commercial (CH) to Urban Low (R1-6) located on the north side of Padden Parkway at approx. NE 82nd Avenue. The Planning Commission recommended **APPROVAL** by a 5 to 0 vote.

CPZ2005-00078 - Amend the Twenty Year Growth Comprehensive Plan Text: The Comprehensive Plan text document was last revised September 2004. Since that update, a number of inconsistencies have been identified in the document. This amendment serves as a post adoption correction to the comprehensive plan text. A file containing the adopting ordinances and text document can be viewed in the Long Range Planning Division. The Planning Commission recommended **APPROVAL** by a 6 to 0 vote. The Planning Commission recommendations **did not** make the deletions set out at 1.2, 1.3, correcting Table 1.2, **not** making the deletions set out in 1.4, 1.1.15 and 3.2.13 in the staff report. Continued from November 16, 2005.

Lowry stated that the board would have to continue to a date and time certain and suggested they continue to the following Tuesday at 10:00 a.m. and if that presents a major problem for Mr. Printz, he could notify the Clerk of the Board about possibly moving it up to 11:00 a.m. or something like that.

Printz said he was okay to try for the following Tuesday.

There being no comment, **MOVED** by Boldt to continue the public hearing pertaining to Annual Review Docket Items to December 13, 2005, at 10:00 a.m. in the Commissioners Hearing Room, Sixth Floor, Public Service Center. Commissioners Morris, Boldt, and Stuart voted aye. Motion carried. (See Tape 246)

Morris pointed out that the only remaining items were NE 117th Avenue, Lusk, and changes related to the Comprehensive Plan Text.

COMMISSIONER COMMUNICATIONS

There were no Commissioner communications.

BOARD OF COUNTY COMMISSIONERS

Betty Sue Morris/s/
Betty Sue Morris, Chair

Marc Boldt/s/
Marc Boldt, Commissioner

Steve Stuart/s/
Steve Stuart, Commissioner

ATTEST:

Louise Richards/s/

Clerk of the Board

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